

# Oakland Police Department Office of Internal Accountability

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## Use of Force Daily Logs and Vision Reconciliation AND Type 32 Review

**Oakland Police Department**  
**Office of Internal Accountability**

455 7<sup>th</sup> Street, 9<sup>th</sup> Floor | Oakland, CA 94607 | Phone: (510) 238-3868

## CITY OF OAKLAND

### Memorandum

**To:** Chief Darren Allison

**From:** A/Deputy Chief Bryan Hubbard, Bureau of Risk Management

**Date:** November 29, 2023

**Subject:** **Two Reports: the Use of Force Daily Logs and Vision Reconciliation and the Type 32 Use of Force Review**

Enclosed are two reports from the Office of Internal Accountability (OIA). First, because the City of Oakland was a victim of a ransomware attack, causing Vision (the Department's system that records and tracks employee uses of force) to be offline until April 21, 2023, we conducted an inspection to ensure all reported uses of force documented on the Use of Force Daily Logs from February 1, 2023, through April 30, 2023, were entered into Vision. The result was all uses of force were entered into Vision.

Second, we conducted a review of documentation of Type 32 uses of force during the first seven months after implementation of Special Order 9208, *Documentation of the Use of Force*. The purpose of the inspection was to assess Department compliance with the updated reporting and review requirements, to assess general levels of supervision for this force type, and to analyze the newly collected Type 32 use of force data in Vision. The evidence reviewed was created during the period of June 4, 2022, through December 31, 2022.

The focus of this audit was on Type 32 incidents where no other force was used. The aspects under review included policy compliance by the officers involved in the Type 32 uses of force and their respective supervisors and commanders; the supervisors' review of the involved officers' body worn camera, when applicable; and trends found in incidents involving Type 32 force.

To conduct the audit, OIA reviewed Crime Reports, Use of Force Reports, body worn camera footage, and data collected in the Department's Vision Use of Force module related to Type 32 uses of force.

The audit found that, overall, OPD officers (e.g., police officers, sergeants, lieutenants) complied with the updated Type 32 reporting and review requirements. There was only one police officer out of 77 who did not properly report a Type 32 use of force in an incident, and this lack of documentation was referred to the officer's chain of command for further handling.

Respectfully,



A/Deputy Chief Bryan Hubbard  
Bureau of Risk Management  
Oakland Police Department

## Contents

<b>Use of Force Daily Logs and Vision Reconciliation.....</b>	<b>2</b>
<b>Type 32 Audit .....</b>	<b>3</b>
<b>Introduction .....</b>	<b>4</b>
<b>Background .....</b>	<b>5</b>
<b>Findings .....</b>	<b>10</b>
<b>Observations .....</b>	<b>14</b>
<b>Analysis of Type 32 Data .....</b>	<b>27</b>



## Office of Internal Accountability

# Use of Force Daily Logs and Vision Reconciliation

*By Kristin Burgess-Medeiros*

## Introduction

On February 8, 2023, the City of Oakland was the victim of a ransomware attack that took Vision (an electronic system the Oakland Police Department uses to track employee data, including uses of force) offline until April 21, 2023. During this period, officers and sergeants tracked risk management workflow on paper, later entering the data into Vision. Due to the challenges of reverting to paper reports and delayed entry, the Office of Internal Accountability (OIA) conducted a reconciliation between Use of Force Daily Logs and Use of Force Reports entered into Vision for the period of February 1, 2023, to April 30, 2023.

## Background and Methodology

Sergeants are required to notify the Communications Division when a use of force occurs, and Communications' staff document the incident on a Use of Force Daily Log. The OIA compared the Use of Force Daily Logs with Use of Force Reports entered into Vision to ensure that every use of force incident on the logs had an associated Use of Force Report in Vision.

## Findings

For the period of February 1 through April 30, 2023, in the aggregate, there were 391 entries on the Use of Force Daily Logs and all were found to have an associated report in Vision. This is a testament to the efforts of personnel in the Bureau of Field Operations Administrative Unit who carefully tracked uses of

force during the Vision outage and ensured use of force incidents were entered into Vision as soon as access was restored.

However, there were 396 Use of Force Reports in Vision for the same time period, and these additional five use of force incidents were not located on any of the Use of Force Daily Logs. The Auditor noted that all five incidents involved only Type 32 uses of force, the lowest level of reportable force, and that three of these incidents occurred on the same day (February 5, 2023), prior to the ransomware attack. The Auditor also noted that the three incidents involved different officers and reviewing sergeants.

It is unknown why five use of force incidents were not entered on any of the Use of Force Daily Logs, but because only five incidents (1%) were not found on the logs, OIA did not pursue additional evidence to confirm why they were missed. Additionally, Vision is the official record of use of force incidents and all incidents on the logs were entered into Vision.

## Recommendation(s)

None

## References

Departmental General Order K-4, Reporting and Investigating the Use of Force, effective October 16, 2014, pgs. 15, 21, and 30.

## Type 32 Audit

*By Juanito Rus*

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### **Objectives**

1. Assess OPD compliance with the updated reporting and review requirements of Special Order 9208.
2. Assess supervision of incidents in which Type 32 force was employed by Department personnel.
3. Analyze Type 32 use of force data collected in Vision, seeking trends and patterns in the data to assist OPD in understanding this force type and how it compares to other uses of force.

### **Key Findings**

#### **Finding #1**

To assess OPD's force reporting, the Auditor reviewed documentation and body worn camera video from a random sample of 40 incidents in which only Type 32 force was reported to have been used. The sample was drawn from the period of June 4, 2022, to December 31, 2022, and was comprised of 127 Type 32 uses of force with 43 subjects by 77 different officers. Officers correctly documented their Type 32 uses of force per Department policy in 39 of the incidents. However, there was one incident

in which an officer did not report their involvement in a Type 32 use of force and OIA referred the lack of documentation to that officer's chain of command for further handling.

#### **Finding #2**

The Auditor also reviewed the sample of 40 incidents to assess whether supervisors reviewed video and completed force investigations per Department policy. The inspection found that a supervising sergeant properly reviewed body worn camera video of the relevant portion of the incident within 10 days for each of the four incidents requiring such review under Special Order 9208.

### **Key Recommendation**

The Auditor recommends that the Department post the PowerPoint describing how to document multiple Type 32 uses of force in PowerDMS and convert it into policy language which can be included in any future policy revision replacing of Special Order 9208, which details Type 32 force reporting, or in Report Writing Manual U-1 – Use of Force Report: Vision Form Completion Instructions.

## Introduction

On February 15, 2020, the Oakland Police Department introduced Level 4, Type 32 Force to the categories of reportable uses of force under Department policy.<sup>1</sup> Upon inception, Type 32 force was, and remains today, the lowest reportable force type. It is a catch-all category described<sup>2</sup> as:

Any use of force, as defined in Departmental General Order K-3, *Use of Force*, used to:

- Overcome resistance of a person during an arrest or a detention.
- Defend oneself or another from combative action by another person.
- And which is not categorized in reporting Types 1-31.

Type 32 uses of force were quickly identified as far more prevalent than other force types. Therefore, on February 27, 2020, only 12 days after Special Order 9196 was introduced, the Department created Special Order 9202, which temporarily modified the reporting requirements for Type 32 force “due to an unexpectedly high volume of calls standing after that date, which... potentially jeopardized public safety.”<sup>3</sup> The primary purpose of Special Order 9202 was to modify the reporting requirements of Type 32 force from the general standard that all force be documented in the Vision database,<sup>4</sup> while maintaining a requirement to report the force.

On June 4, 2022, the Oakland Police Department introduced Special Order 9208, again changing the reporting and review requirements for Type 32 incidents. Notably, the Special Order requires officers to submit force reports for Type 32 uses of force as they do for all other force types, and therefore ensuring that Type 32 uses of force would now be tracked in Vision. In addition, supervisors are required to review officers’ body worn camera footage when specific circumstances (i.e., misconduct complaint, vehicle pursuits, subject complains of pain, or an arrest for Penal Code 69, 148, or 243.b).

Because of the latest change in policy, the Office of Internal Accountability (OIA) conducted a review of a sample of Type 32 use of force incidents which occurred during the initial seven months after implementation of Special Order 9208. The goals of the review included an assessment of Department compliance with the updated reporting and review requirements, an assessment of how much supervision incidents in which this force type occurred received, and a study of the newly collected Type 32 use of force data as submitted into the Vision database. The review period was June 4, 2022, through December 31, 2022.

To conduct the review, OIA randomly selected 40 incidents in which officers reported Type 32 uses of force and no other types of force. The Auditor conducted a detailed review of all written and video documentation of each incident, assessing officer and supervisor compliance with the provisions of the Special Order, and the amount and types of supervision each incident was documented as having received, independent of whether that supervision was responsive to a specific policy requirement.

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<sup>1</sup> SO 9196, pg. 4.

<sup>2</sup> SO 9208, pg.1.

<sup>3</sup> SO 9202, pg. 1.

<sup>4</sup> Vision is the Department’s centralized risk management database which contains modules tracking many important aspects of Department operations, including personnel, uses of force, discipline, etc.

Additionally, OIA analyzed newly collected Vision use of force data seeking trends in the data to assist OPD in understanding the dynamics of police encounters in which Type 32 force was used.

## Background

### **The History of the Reporting and Review of Type 32 Uses of Force**

In 2020, the Oakland Police Department introduced an update to its use of force reporting policy, Department General Order K-03 (DGO K-3), after a months-long development process with the Oakland Police Commission. This new policy was designed to go beyond minimal legal requirements related to officer use of force. The policy defined force as “Any physical or mechanical intervention used by an officer to defend against, control, overpower, restrain, or overcome the resistance of an individual.”<sup>5</sup> The breadth of that definition made it inclusive of many officer interventions that had not previously been tracked by the Department and did not fit in any of the existing force categories. The Department issued Special Order 9196 in February 2020 to clarify the revision to DGO K-3 and created a new force category – Type 32 – to capture a range of minimal force interactions used to overcome resistance which did not fit into the existing categories.

When first introduced, the volume of incidents in which officers applied physical force to overcome a subject’s resistance was large enough to warrant concerns that the documentation and review requirements of those interactions would overwhelm patrol and front-line supervisors with additional workload. The Department requested permission from the Oakland Police Commission to temporarily modify reporting requirements for Type 32 force to allow Department staff to adjust to the changes and better understand the impacts of the new reporting.<sup>6</sup>

To this end, the Department issued Special Order 9202 in late February 2020. This Special Order modified the documentation and review requirements for Type 32 uses of force, pausing the requirement for officers to file Type 32 uses of force in Vision and carving out a lesser standard of review for Type 32 force than for other force types. At the same time, SO 9202 maintained an obligation for officers to report Type 32 force to supervisors, document their participation in written reports, and add a “K32” annotation within the body-worn-camera video data which captured the force. Through this mechanism, officers and supervisors were able to acclimatize themselves to the new force type and reporting requirements. However, these procedures left no record of Type 32 uses of force in the Department’s Vision database.

It should be noted that Special Order 9202 did not include any requirements for supervisors to review body worn camera video of interactions with a Type 32 use of force. The Office of Internal Accountability has previously performed two inspections, in 2021 and 2022, specifically examining officer and supervisor compliance with the SO 9202 Type 32 force reporting policy.<sup>7</sup>

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<sup>5</sup> Department General Order K-03: *Use of Force*, pg. 7.

<sup>6</sup> From the introduction of SO 9202: “Special Order 9196 took effect on 15 Feb 2020. Due to an unexpectedly high volume of calls standing after that date, which has potentially jeopardized public safety, Special Order 9196 is temporarily modified.”

<sup>7</sup> Oakland Police Department Office of Internal Accountability’s Use of Force Reporting Inspection, 2022 <https://cao-94612.s3.amazonaws.com/documents/3rd-Quarterly-Report-2022-FINAL-17Mar23.pdf>; Inspection of

On June 4, 2022, the Department issued Special Order 9208, updating the temporary measures set forth for Type 32 force with a more permanent reporting and review structure. Under Special Order 9208, Type 32 uses of force must be entered in Vision. Unlike other force types, supporting documentation (incident reports, CAD reports, links to body worn camera footage, etc.) are not required to be uploaded to support the investigation of these uses of force. Officer requirements remain consistent in the standard of documentation within a report. Supervisors are required to review officers' reports for all incidents in which Type 32 force was used and to determine whether the reported force appeared to be within Department policy. A supervisor must review body worn camera video of the Type 32 force incident only when any of the following circumstances exists:<sup>8</sup>

- *When a vehicle pursuit is associated with the incident.*
- *When the incident involves an arrest for 69, 148, or 243(b) PC.*
- *When the subject of the Type 32 has a complaint of pain and/or a minor bodily injury related to the use of force. (Complaint of pain is defined as a report of pain that persists beyond the use of a physical control hold or other use of force, but where there is no visible injury corresponding to that pain. Minor bodily injury is defined as corporal injury, illness, or an impairment of physical condition greater than transitory pain but less than great or serious bodily injury (e.g., bruises, cuts, and abrasions).)*

### **The Collection of Type 32 Data in Vision**

The backbone of the OPD's risk management systems is the Vision software suite, which encompasses several modules including the one for use of force reporting and tracking. When an OPD officer uses force in the field, they are required to immediately report that force to their supervisor and log it in the computer aided dispatch (CAD) record.<sup>9</sup> Each officer who used force is required to document the incident and their participation in a written report. Either the participating officer(s) or their supervisor must create a use of force entry in Vision pursuant to the instructions of OPD Report Writing Manual U-01, *Use of Force Report: Vision Form Completion Instructions*, by making entries in the following data fields (each requirement references the page that requirement can be found in RWM U-01):

- 1) A narrative description of all force used. (pg. 6)
- 2) A list of all participating officers and their supervisors. The report also allows the reporter to add information about whether those officers were injured during the encounter or required medical attention. (pg. 6)
- 3) A list of all subjects of officer force. For each subject, this includes basic identifying and demographic information and a series of drop-down menus and check boxes to detail that person's interaction with the police. These include whether the person was arrested, required medical attention, was transported by the police, was injured during the encounter, the extent of any injuries, etc. (pg. 7)

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Use of Force Reporting, 2021, <https://cao-94612.s3.amazonaws.com/documents/OIG-2021-3rd-Quarterly-Report-FINAL.pdf>.

<sup>8</sup> SO 9208, pg. 2.

<sup>9</sup> DGO K-4, pg. 24.



- 4) Circumstances of the incident and use of force. In addition to the information about the officers and subjects of force there are a series of drop-down menus for officers to specify details associated with the incident and any uses of force. These include – among other details of the incident – whether supervisors were on scene and when they arrived, the reason for the officer’s presence at the incident (dispatched walking or driving stop, etc.), and the actions immediately preceding, and during which the use of force occurred. (pg. 5)
- 5) If an incident involves multiple uses of reportable force, each must be documented with a separate “force detail,” which includes the name of the subject of that use of force, the officer who employed that use of force, the force type, and any injury the subject sustained due to that use of force. (pg. 8)

The Vision force report then serves as the official administrative record of the required investigation into any given use of force. When it is created, depending on the type of force employed and the level of supervisory review required by policy, approval tasking requirements continue through the appropriate chain of command for subsequent reviews. The Vision report includes tasking and chronological logs, allowing a reviewer to track progress of the case or to determine who approved the force report at each stage, the date and time that approval occurred, and any additional comments added by the reviewing supervisor.

Data entered into Vision via the creation and review of use of force reports may be made available for analysis. Exports of the Vision force data (used by the Auditor for this inspection) included 68 different variables describing the incident, officers, subjects, investigation, and other details.

## Scope and Population/Sample

As mentioned, Special Order 9208 *Documentation of the Use of Force*, expanded OPD’s reporting, documenting, and reviewing of Type 32 uses of force. The focus of this audit was on Type 32 incidents where no other force was used; the documentation responsibilities of officers involved in the Type 32 uses of force (and their supervisors’ and commanders’ reviewing responsibilities); the supervisors’ review of the involved officers’ body worn camera, when applicable; and trends and patterns found in incidents involving Type 32 force.

Based on the requirements of SO 9208, OIA tested whether officers who used Type 32 force completed the following tasks:

- Created a Use of Force Report in Vision (or their supervisor created the report).
- Wrote a Crime/Supplemental Report, which included the original reason for police presence, the circumstances that resulted in the use of force, and a detailed description of the force used.

Based on the requirements of SO 9208, OIA tested whether supervisors completed the following tasks:

- Reviewed the Type 32 Use of Force Report in Vision.
- Reviewed the involved officers’ Crime/Supplemental Reports.
- Conducted a body worn camera review of the Type 32 incident when the following circumstances existed: (1) a misconduct complaint was lodged against an officer or OPD,

regardless of the allegation; (2) a vehicle pursuit was associated with the incident; (3) the incident involved an arrest for Penal Code §§ 69, 148, or 243(b); and (4) the subject of the Type 32 had a complaint of pain and/or a minor bodily injury related to the use of force.

Based on the requirements of SO 9208, OIA tested whether commanders completed the following task:

- Reviewed the Type 32 Use of Force Report in Vision.

The audit period was June 4, 2022, through December 31, 2022.

### **Population/Sample**

During the audit period, there was a population 625 Type 32 incidents where no other force types were used. OIA randomly selected a sample of 40 incidents.

For the 40 Type 32 incidents, OIA reviewed:

- 127 Type 32 use of force reports, involving 77 officers and 43 subjects.
- 107 Crime/Supplemental Reports.
- 170 body worn camera videos.

## References

1. Departmental General Order K-4, *Reporting and Investigating the Use of Force*, dated October 16, 2014
2. Departmental General Order K-3, *Use of Force*, dated January 1, 2022
3. Departmental General Order I-15.1, *Portable Video Management System*, effective date July 16, 2015
4. Office of the Chief of Police, Special Order 9196, *Documentation of the Use of Force*, effective date February 15, 2020
5. Office of the Chief of Police, Special Order 9202, *Documentation of Specific DGO K-03 Force*, effective date February 27, 2020
6. Office of the Chief of Police, Special Order 9208, *Documentation of the Use of Force*
7. OPD Report Writing Manual U-01, *Use of Force Report, Vision FORM Completion Instructions*
8. OPD Report Writing Manual Insert U-02, *Level 4 Use of Force Report*

## Methodology

To assess employment of Type 32 uses of force by Department personnel and compliance with both officer and supervisor responsibilities surrounding the force, the Auditor examined force data and other documentation of incidents in which such force was used, for the period of June 4, 2022, through December 31, 2022. The data collection for this assessment occurred in two phases:

1. The Auditor received an export of Use of Force data from the Vision database for the period of June 4, 2022, through December 31, 2022, to assess trends and report on statistical characteristics of those uses of force in the field.
2. The Auditor then randomly selected 40 incidents that only involved Type 32 force from the June 4, 2022, to December 31, 2022, data set.

- a. For these incidents, the Auditor reviewed all written reports and body worn camera video of the incidents to assure that officers correctly reported all Type 32 force.
- b. Additionally, the Auditor reviewed body worn camera video audit logs and use of force investigation chronological logs to assure that supervisors properly reviewed all Type 32 force in these incidents according to Department policy.

#### Objective 1

To assess the quality of Department force reporting, the Auditor reviewed all written reports describing the incident in Frontline,<sup>10</sup> including arrest, field interview, and supplemental written reports. For each incident, the Auditor checked whether the number of uses of force documented in the officers' written reports corresponded with the number of uses of force documented in Vision, and whether each officer with a documented use of force in Vision had submitted a separate written arrest, field interview, or supplemental report narrative documenting their participation in the incident.

#### Objective 2

The Auditor then searched for video from active body-worn-cameras associated with each incident in Evidence.com<sup>11</sup> and reviewed video spanning the entirety of the incident, from the first officer's arrival to the end of police contact with the subject (i.e., released from custody, arrested and booked into jail, transferred to the custody of medical professionals, etc.). Whenever possible, this review included multi-camera reviews<sup>12</sup> of those portions of each police interaction in which a use of force was reported, or where the Auditor required additional camera angles to fully understand key aspects of the interaction. In each case, the Auditor compared the video record of the interaction with the written reports to assess whether:

- 1) All officers who used force documented that force correctly in Vision and in written arrest, field interview, or supplemental written reports per the requirements of SO 9208.
- 2) Any subject of a use of force requested to make a complaint (and whether that request was honored) or complained of injury or persistent pain as a result of their interaction with the police, and whether those complaints were documented in both force reports in Vision and written arrest, field interview, or supplemental reports.

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<sup>10</sup> Frontline is the Department's report record system for arrest, field interview, supplemental, traffic, and other incident reporting.

<sup>11</sup> Evidence.com is the cloud-based video storage system used by the Oakland Police Department for all body worn camera video.

<sup>12</sup> When displaying body worn camera video, Evidence.com has a feature which allows the reviewer to open up to three additional windows with video from other body worn cameras that were active and in proximity to the body worn camera that captured the video being viewed at the same time. These videos are then automatically synchronized to allow the reviewer to see up to 4 simultaneous views of the same scene from multiple camera angles.

Finally, to assess supervision and investigations of Type 32 uses of force, the Auditor reviewed audit logs of body worn camera video files in which that force was captured in Evidence.com to determine whether video had been reviewed, who conducted that review, and how long after each incident the review occurred. For incidents that fit the criteria for requiring video review under SO 9208, the Auditor also reviewed chronological logs of the force investigation to assure that these matched the body worn camera video viewing histories documented in Evidence.com. In all, the Auditor's inspection of the 40 sample incidents included a thorough review of 107 written arrest, field interview and supplemental narrative reports and approximately 170 body worn camera videos.<sup>13</sup>

### Objective 3

For the third audit objective, analyzing trends and patterns related to Type 32 force from Vision Use of Force data, the Auditor analyzed force data generally and then isolated incidents in which at least one Type 32 use of force was reported (including instances in which it occurred in conjunction with other force types), and those in which only Type 32 force was reported for the period of June 4, 2022 (when Special Order 9208 was adopted) through December 31, 2022. The Auditor was interested in learning the prevalence and characteristics of Type 32 force, and in what ways incidents involving a Type 32 use of force, or only involving a Type 32 use of force, may differ from incidents in which other types of force are employed.

## Findings

### Finding #1

#### Documenting Type 32 Force

**To assess OPD's force reporting, the Auditor reviewed documentation and body worn camera video from a random sample of 40 incidents in which only Type 32 force was reported to have been used. The sample was drawn from the period of June 4, 2022, to December 31, 2022, and was comprised of 127 Type 32 uses of force with 43 subjects by 77 different officers. Officers correctly documented their Type 32 uses of force per Department policy in 39 of the incidents. However, there was one incident in which an officer did not report their involvement in a Type 32 use of force and OIA referred the lack of documentation to that officer's chain of command for further handling.**

OPD requires officers to document any force employed during a police encounter via a Use of Force Report in Vision, which includes relevant information about the force and all involved officers. Additionally, all officers involved in Type 32 uses of force are required to complete a written arrest, field interview, or supplemental report. These reports must minimally include the original reason for police presence, the circumstances that resulted in the use of force, and a detailed description of the force used.<sup>14</sup>

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<sup>13</sup> The Auditor viewed 170 primary videos; however, this number does not include additional videos that were selected to review additional camera angles using the multi-camera feature of Evidence.com.

<sup>14</sup> SO 9208, pg. 2.

To assess officer compliance with the force reporting requirements of SO 9208, the Auditor conducted a detailed review of the 40 incidents sampled from the population of incidents during the inspection period in which only Type 32 force was used. Using the report or incident numbers associated with these incidents, the Auditor located the relevant written reports in OPD's Frontline report system. In all, the sample of 40 incidents were found to include 127 reported uses of force involving 43 subjects by 76 different officers (some of whom were involved in multiple incidents) and one officer did not report their use of force. The Auditor located and reviewed 107 arrest, field interview, and supplemental reports associated with these incidents.

OPD requires officers to activate their body worn camera before contacting a citizen to confirm or dispel a suspicion that the citizen may be involved as a suspect in criminal activity; during detentions and arrests; and while transporting any detained or arrested citizens (excluding prisoner wagon transports).<sup>15</sup> As an added measure, to assure all uses of force were captured in reports, and that the written descriptions of each incident and use of force were accurate and complete, the Auditor viewed 170 body worn camera videos associated with the sampled 40 Type 32 use of force incidents. The footage of each incident was viewed from first contact between the OPD officer(s) and the subject(s) until all contact ended, either because the subject of the contact was released or was transferred to the custody of another entity (e.g., medical personnel, sheriff deputies, prisoner wagon, etc.). For portions of any encounter in which there was either documented use of force, or the Auditor had a question about force, the Auditor attempted to locate additional active body worn cameras and utilized the Evidence.com multi-camera video feature to examine the interaction from multiple angles. The multiple angled review ensured the observed force was able to be properly analyzed compared to policy and as compared to both the Use of Force Report in Vision and officers' written reports.

For 39 of these incidents, involving 126 documented uses of Type 32 force by 75 officers (or 88 officers if counting each officer once per incident, as 12 officers were found to have participated in a Type 32 use of force in more than one incident in the sample), the Auditor was able to determine that every officer who had participated in a Type 32 use of force was included in a force report for that incident, and also filed a written arrest, field interview, or supplemental report describing the incident and documenting their participation in any use(s) of force with enough detail to comply with the reporting requirements of SO 9208 (corresponding with 88 written reports in Frontline).

During the video review of one of the 40 incidents, the Auditor observed two officers involved in a Type 32 use of force restraining a resistant subject, but only one of these officers completed a corresponding report that included the original reason for police presence, the circumstances that resulted in the use of force, and a detailed description of the force used. The Auditor further observed the non-reporting officer, who assisted in the handcuffing of a resistant subject (a Type 32 use of force), was not listed in the Use of Force Report in Vision. The lack of documentation was referred to the officer's chain of command for further handling.

In one other incident, the Auditor determined that all officers reported force according to policy but was concerned that one officer did not detail the full circumstances of their Type 32 use of force in their written supplemental report. In body worn camera video of the incident, the Auditor observed that officer retreat behind and push on a patrol vehicle door to help control a combative subject who was

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<sup>15</sup> DGO I-15.1, pgs. 2, 3.

attempting to strike and spit on officers. Although the officer completed their supplemental report and described their use of physical control to overcome the subject's resistance and successfully get them into the rear compartment of the patrol vehicle, there was no mention of the use of the vehicle door to assist in this task. While the Auditor judged the force properly reported according to Department policy, they assessed that the door played a sufficient role in the interaction as to have warranted some mention in the written narrative of the officer's supplemental report and the Vision force report for full transparency.

## **Finding #2**

### **Supervision**

**The Auditor reviewed a sample of 40 incidents with a documented Type 32 use of force between June 4 and December 31, 2022, to assess whether supervisors reviewed video and completed force investigations per Department policy. The inspection found that a supervising sergeant properly reviewed body worn camera video of the relevant portion of the incident within 10 days for each of the four incidents requiring such review under Special Order 9208.**

Supervision and review of police interactions with the public take several forms. Under the provisions of DGO K-4 and SO 9208, officers are required to report all uses of force, including Type 32 uses of force, to their supervisor as they occur in the field, and supervisors are required to approve all uses of force.<sup>16</sup> Field supervisors may also participate in an incident, or report to the scene of an incident to observe officers under their command as part of their regular patrol supervision and are required to respond to take any citizen complaints of misconduct at a citizen's request to make a complaint.<sup>17</sup>

Review and supervision then continue after each incident. Under the provisions of SO 9208, supervisors are required to investigate Type 32 uses of force to assure that the officers' use of the force complies with Department policy, and these investigations must include a review of written reports, and, in certain specific circumstances, body worn camera video of the use of force itself.

Generally, under the provisions of DGO I-15.1, *Portable Video Management System*, incidents involving a use of force require field supervisors to review body-worn camera video from all members who participated in or witnessed the force (pg. 9). However, when Type 32 force was first defined and included in the Department's use of force reporting policy there was concern that the prevalence of incidents in which minor force is used to counter resistance or control a potentially dangerous situation was such that requiring full video review of all such incidents would place an undue burden on front line supervisors. Therefore, when regular Type 32 force reporting was codified in SO 9208, patrol supervisors were required to review video of the incident only in certain specific circumstances. According to SO 9208 (pg. 2), body worn camera review of the incident by the supervisor shall be required when any of the following circumstances exist:

- *When there is a misconduct complaint requiring a referral to IAD, regardless of the allegation.*
- *When a vehicle pursuit is associated with the incident.*

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<sup>16</sup> DGO K-4 pg. 24, SO 9208 pg. 2.

<sup>17</sup> DGO M-3, Complaints Against Departmental Personnel, pg. 10.

- *When the incident involves an arrest for 69, 148, or 243(b) PC.*
- *When the subject of the Type 32 has a complaint of pain and/or a minor bodily injury related to the use of force.*

To assess compliance with SO 9208, the Auditor determined whether each of the incidents in the sample met any of the categories requiring video review under the policy and examined the audit logs<sup>18</sup> of all body worn camera video that captured the relevant use(s) of force for each of these incidents to assess compliance with the video review requirements of SO 9208.

None of the incidents selected for the sample involved a vehicle pursuit or arrests for charges of 69, 148, or 243(b) PC (related to an individual's resistance to or assault on a police officer or first responder), and therefore, the Auditor determined that no video reviews were required on those bases.

While the Auditor did observe instances in which subjects complained of pain during incidents involving Type 32 uses of force, SO 9208 (pg. 2) specifies that:

*For the purposes of this policy, complaint of pain is defined as a report of pain that persists beyond the use of a physical control hold or other use of force, but where there is no visible injury corresponding to that pain.*

*For the purposes of this policy, minor bodily injury is defined as corporal injury, illness, or an impairment of physical condition greater than transitory pain but less than great or serious bodily injury (e.g., bruises, cuts, and abrasions).*

In reviewing video and written reports from the 40 incidents in the sample, the Auditor found five instances in which a subject of a use of force complained of pain or was observed to be in pain or injured. However, the Auditor concluded that these complaints were either unrelated to the use of force (In two cases subjects appeared to have injured themselves either prior to contact with police or once in custody) or were transitory pain associated with the act of handcuffing (three subjects complained that handcuffing hurt, but not that there was persistent pain after the handcuffs were applied and properly adjusted). Therefore, none of the incidents in the sample met the criteria for additional video review on this basis either.

Thus, the only incidents in the sample requiring video review under SO 9208 were those in which a formal complaint of officer misconduct was made requiring an Internal Affairs Division investigation. There were 4 incidents that met this criterion in the sample.

### **Required Video Review**

Department policy requires a supervising sergeant to review body worn camera video capturing all Type 32 uses of force for Level 4 force investigations within five calendar days from the date of the incident.<sup>19</sup>

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<sup>18</sup> All body worn camera videos uploaded to Evidence.com, the Department's body worn camera video storage system, include an audit log which automatically documents every action that has occurred vis-à-vis that video, including when it was captured, uploaded to the evidence.com system, downloaded for any reason, or viewed. Viewing logs include the date/time the video was viewed, the serial number of the person who viewed it, any changes made to the video meta-data including changes to notes and time stamps, and, if documented by the viewer, the reason for the review.

<sup>19</sup> DGO K-4, p. 31.



For three of the four incidents requiring video review under SO 9208 because of a complaint of misconduct, the Auditor found entries in the viewing logs of body worn camera video associated with the incident in Evidence.com indicating that a sergeant had reviewed the requisite video within three calendar days, well within the required time limit. For the fourth incident requiring review, the Auditor found that the reviewing sergeant viewed appropriate video within 10 calendar days of the incident.

To further establish that supervisors were following the policy directives of SO 9208, the Auditor next examined the chronological logs of the force investigations captured in Vision. For the single instance in which the mandated video review and force investigation occurred 10 days after the incident, the chronological log showed that the sergeant conducting the force review properly requested an extension due to a pre-planned week-long absence from work, and that the video was viewed, and the investigation finalized, shortly after that sergeant's return to work. Therefore, the Auditor determined that this review was also within Department policy.

Overall, the Auditor determined that each of the four incidents requiring video review under the provisions of SO 9208 were reviewed as required, and that these reviews complied with Department policy and timelines.

The Auditor also noted that in two of the incidents, which were reviewed and submitted by the assigned sergeant within three days, those sergeants initially submitted their investigations prior to the time that the body worn camera audit logs showed them viewing the relevant video with a notation that no video had been reviewed as part of the investigation. However, that initial investigation was reviewed by the approving lieutenant and returned to the sergeant for further work, at which point the sergeant was seen to have reviewed the relevant videos and resubmitted each investigative report. In both cases, the final investigative report after the sergeant reviewed the relevant video was submitted within three days of the incident and both reviews were therefore determined to be compliant with Department policy. This process, by which potentially incomplete Type 32 force investigations were flagged by a reviewing lieutenant, returned for additional work, and resubmitted after the missing elements of the investigation were completed within the timeframe established by policy demonstrates that departmental controls functioned as intended.

## Observations

### **Additional Observation #1**

#### **General Levels of Supervision for Incidents with a Type 32 Use of Force**

**The Auditor examined Use of Force Reports in Vision and body worn camera video logs to assess levels of supervision and Department controls related to Type 32 uses of force beyond those required by policy. This review found that a supervising officer reviewed body worn camera footage of the Type 32 use of force in 31 (77.5%) of the 40 incidents in the sample, and supervising sergeants provided in-person supervision in 19 (47.5%) of the 40 incidents.**

In addition to the specific supervision and force investigation of incidents involving Type 32 uses of force required under General Order K-4 and Special Order 9208, the Auditor was interested in exploring how much supervision and review incidents involving Type 32 uses of force received even when not required



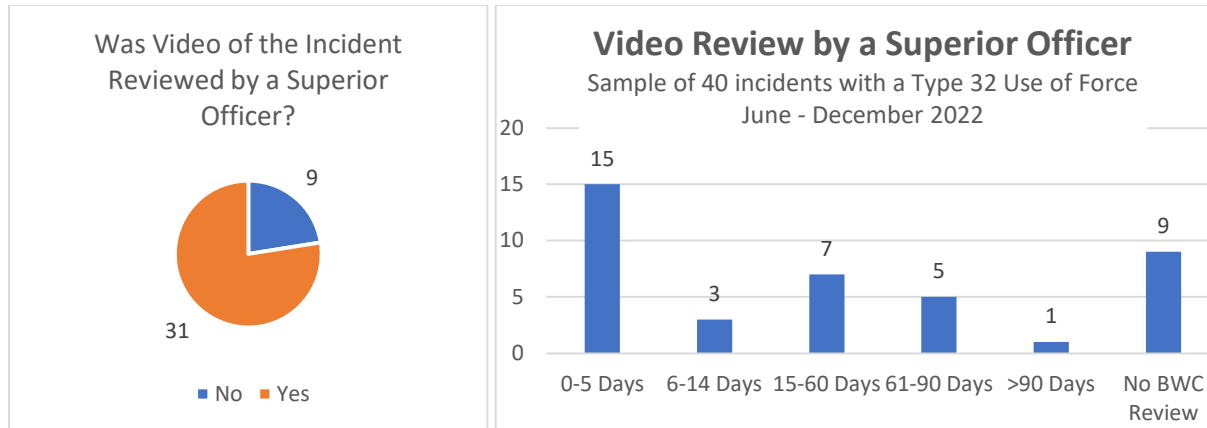
by policy. While this observation does not speak to policy compliance by either front-line officers or their supervisors, a more general assessment of the various levels and types of supervision that incidents involving Type 32 force receive may provide important information about the extent and effectiveness of departmental controls and assist OPD command in assessing whether this force type is receiving scrutiny commensurate with its importance.

To conduct this portion of the review, the Auditor examined two types of supervision that are not specifically required under the Department's use of force policies. First, the audit team looked at the audit logs of body worn camera video associated with each of the incidents in the audit sample to assess whether any had been reviewed by supervising sergeants, members of the involved officers' chain of command, or Department investigators for any purpose. And second, the Auditor examined the Vision use of force report(s) for each incident in the sample to determine whether a sergeant was on scene to provide direct supervision during any portion of each encounter.

### **Video Review**

The Department has layers of supervisory review of body worn camera (BWC) video to guarantee compliance with policy generally and to catch gaps in reporting. Supervisors are required to conduct monthly reviews of a random selection of BWC video for all officers under their command and command staff conduct periodic reviews of video from members of their command for various purposes. Video may also be reviewed as part of active criminal investigations, or if complaints of misconduct are assigned to the OPD Internal Affairs Division (IAD) and civilian Community Police Review Agency (CPRA), where investigators review video and other evidence to determine if officers complied with policy and law. Furthermore, certain categories of arrests and detentions are subject to automatic video review based on Department policy, including arrests involving vehicle pursuits, subjects of arrest or detention who are injured by OPD officers, or for arrests involving specific criminal charges covered by special review rules under OPD policy.

In Finding #2, the Auditor established that every incident that required review of BWC video under Special Order 9208 was reviewed by a supervising sergeant who then submitted a use of force investigation for approval within the timeline specified by that policy. Including those four incidents that required video review per policy, the Auditor determined that a superior officer (i.e., an OPD officer with the rank of sergeant, lieutenant, or captain) had reviewed video in which the Type 32 force occurred in 31 (77.5%) of the 40 incidents in the sample, and that these reviews had occurred within 2 weeks of the use of force in 18 of the incidents (see Figure 1).



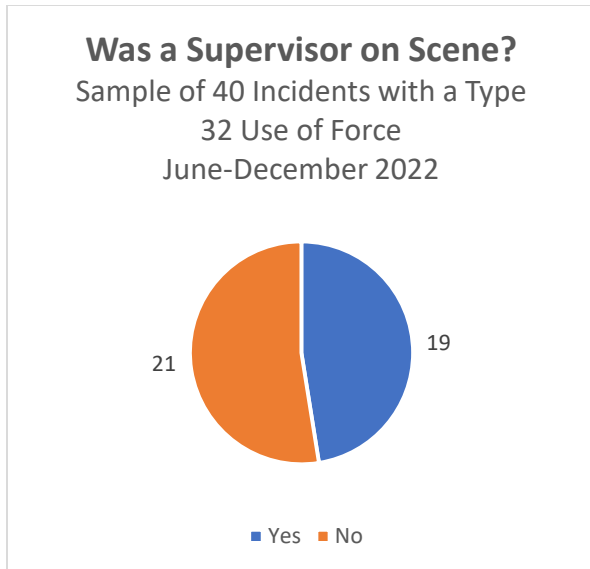
**Figure 1:** Superior Officer review of body worn camera video for the sample of 40 incidents with a Type 32 use of force drawn from June 4 – December 31, 2022, examined by the Auditor. Note: BWC Video review was only required for 4 incidents under Department policy as described in Finding #2.

While the Auditor was able to establish that body worn camera video of each of these incidents had been viewed by a superior officer, they were unable to determine the reason for these video reviews. The Evidence.com record of each body worn camera video activation allows reviewers to make an annotation in the audit log describing the reason for the review, but the Auditor only found one instance in which a lieutenant entered such an annotation describing the purpose of their view of the video (in that case it was described as part of a mandated random monthly body worn camera review). Even without these annotations, however, the viewing logs demonstrate that – at least for the 40 incidents randomly selected for this review – video of more than three quarters of the Type 32 uses of force were directly observed by superior officers in the days and weeks following each incident.

### On Scene Supervision

In addition to after action review of body worn camera video related to incidents involving Type 32 force, supervising sergeants also provide direct supervision in many of these incidents by assisting and observing all or part of the interaction in person.

Records associated with the 40 incidents in the sample revealed that patrol sergeants were on scene to observe all or part of the police interactions with the subjects of the Type 32 uses of force in 19 (47.5%) of the incidents reviewed in the sample (see Figure 2), though their presence was only required under Department policy in the four incidents, stated in Finding #2, in which the subjects of the force asked to make a complaint. There are no specific requirements that supervisors be present when Type 32 force is employed, however the presence of a supervisor on scene provides another safeguard against improper uses of force and is deemed by the Auditor to be an important additional control for the Department.



**Figure 2:** Whether a supervisor was reported to be on scene during sample of 40 incidents in which only Type 32 force was reported, June-December 2022

In summary, Finding #2 established that all mandated video and in person supervision occurred per the directives of SO 9208, but for the 40 incidents in the audit sample, supervising officers were found to have observed these incidents in person 47.5 percent of the time, and to have reviewed BWC video capturing the force interaction in 77.5 percent of the randomly selected incidents even when that review was not mandated in policy.

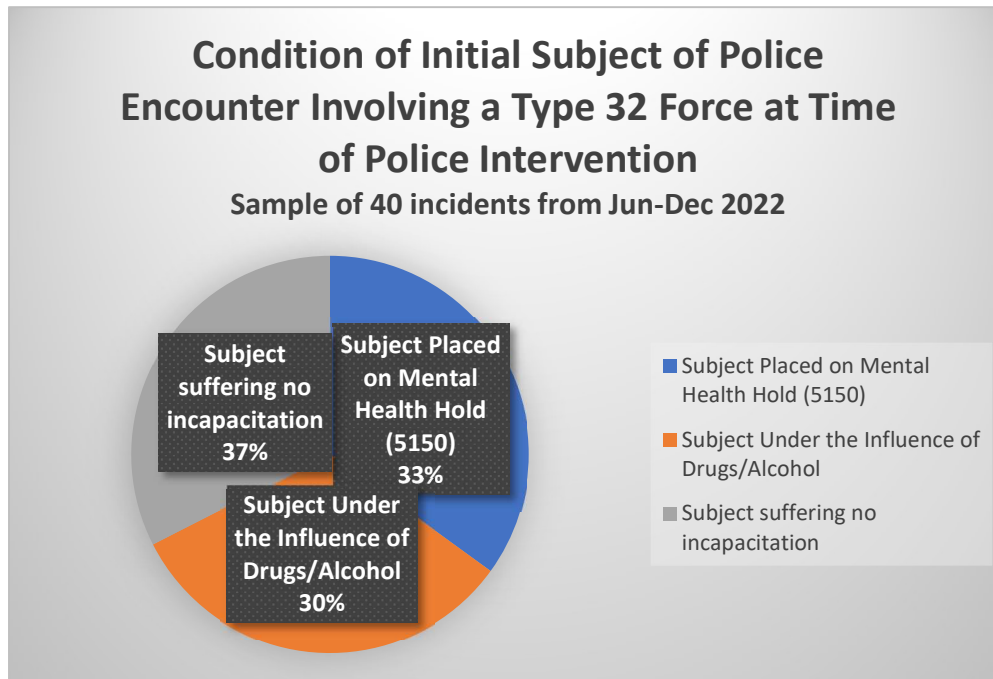
### **Additional Observation #2**

#### **Subjects Suffering from Mental Health Crises or Intoxication**

**In the 40 sample incidents with a Type 32 use of force, 63 percent of the individuals (27 of the 43 subjects) who were the initial subject of the incident were either assessed as being intoxicated or as being eligible to be placed on an involuntary psychiatric hold (5150) at the time of their interaction with the police. Specifically, 33 percent of these subjects were assessed as experiencing a mental health crisis requiring involuntary detention (14 of the 43 subjects), and another 30 percent were reported and observed to be under the influence of drugs or alcohol (13 of the 43 subjects).**

While statistical analysis of Department force data allows for some analysis of patterns of uses of force across officers and types of police interactions, certain aspects of a detention or arrest are not captured in that data. In reviewing both video and written reports by responding officers in the 40 incidents randomly selected for detailed analysis in this inspection, the Auditor observed that the reported use of Type 32 force was often directly related to behavior officers or reporting parties described as erratic. Further, the officers reported their assessment of the subject(s) to either be under the influence of drugs or alcohol or meeting the criteria of experiencing a mental health crisis requiring involuntary

detention under section 5150 of the Welfare and Institutions Code.<sup>20</sup> Figure 3 shows the proportion of these subjects of force that fall into either of these two categories.



**Figure 3:** Roughly two thirds of the primary subjects of force in incidents in which only Type 32 force was used were reported and observed to be intoxicated or suffering some type of mental health crisis at the time of the police intervention.

The Auditor was also interested in charting the circumstances in which each Type 32 use of force was employed against resistant subjects in the sample. While the Vision force report template includes drop-down menus to indicate the “action preceding” and “action immediately preceding” the use of force, these fields relate to the entire incident, are not specific to each force detail, and do not describe what officer actions constitute the force that is being reported.<sup>21</sup> For example, if force is employed once to grab and hold the subject, and then again to restrain them in a gurney prior to medical transport, the statistics captured in Vision might only list “detaining subject” as the action preceding the force in the incident and “subject resisting/struggling (no strike)” as the action immediately preceding, without capturing that each force interaction during the incident had a slightly different immediate purpose, or what those purposes were.

To understand how force was employed in the sample incidents, the Auditor created a set of categories to describe each observed use of force in the incidents reviewed (Figure 4, below). In total, the 40 incidents that formed part of the sample included 50 separate instances of Type 32 uses of force, separated sufficiently by time and distance to constitute different force interactions. While some of these interactions involved multiple officers and were therefore the basis of multiple force details in the

<sup>20</sup> There were also three individuals in the sample incidents who were restrained by police from interfering in the primary police encounter, which also constituted Type 32 uses of force, but which are excluded from this analysis because the force was incidental to the primary subject of detention or arrest.

<sup>21</sup> Statistics about these variables are included in the statistical review section at the end of this report

respective Vision report, this analysis is focused on the reason for and type of force used in individual force interactions without regard to the number of officers involved in each interaction.

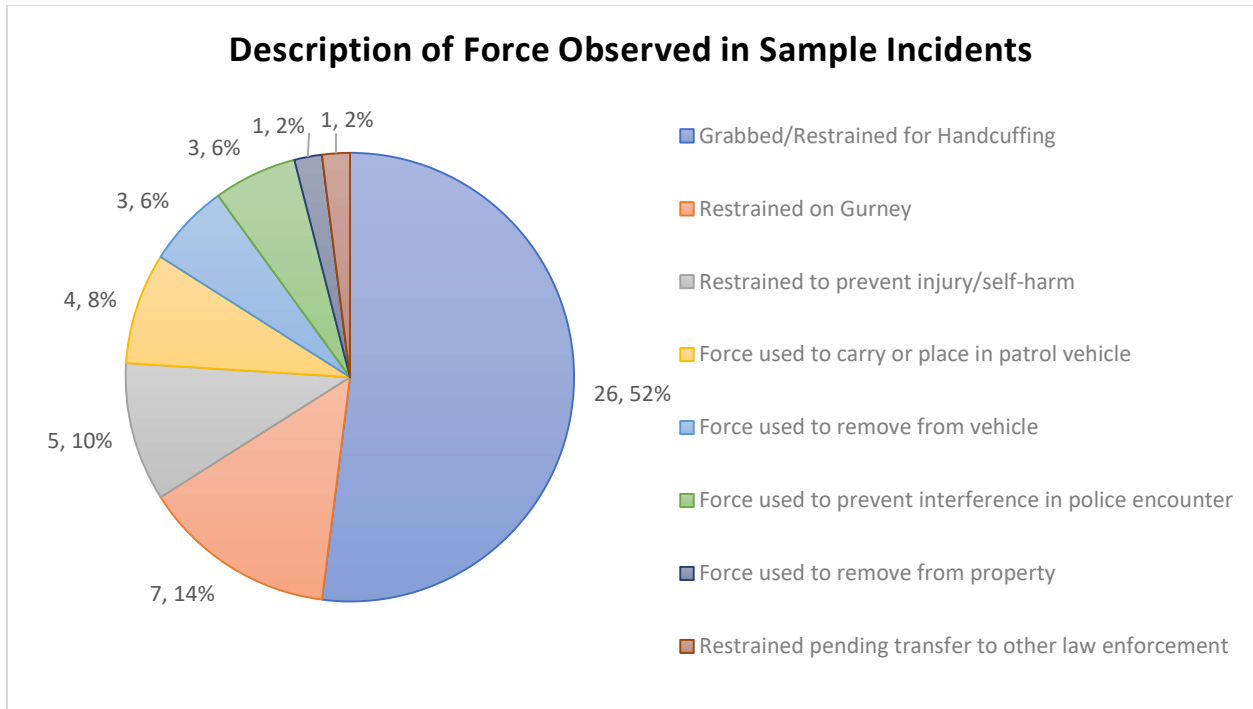
Under this rubric, 52 percent of the of the force used in the sample incidents involved force used to overcome resistance while restraining a suspect in handcuffs (26 of the 50 separate force engagements in the 40 incidents reviewed by the Auditor involved officers restraining subjects for handcuffing). Other than handcuffing, resistance often took the form of officers restraining individuals engaged in combative or erratic behavior associated with a person suffering a mental health crisis or who is intoxicated.

Thirty-two percent (16 of 50) of the reported instances of Type 32 force in these interactions were directly associated with circumstances related to such impairment. In this category are uses of force to restrain a subject on a gurney related to a mental health emergency either prior to transporting that individual to a medical facility or to restrain them at the direction of medical professionals at a hospital (7 instances of force); to restrain a subject to prevent injury or self-harm (5 instances of force); or to carry/support a subject unable to walk under their own power and/or to place that individual in a patrol vehicle (4 observed instances of force).<sup>22</sup>

While the 40 incidents comprising the sample used in this audit was too small to make generalizations across the broader population of incidents with Type 32 uses of force, the prevalence of resistant subjects who suffer substance-abuse and/or mental health crises in the sample incidents may be indicative of an important underlying factor in the understanding Type 32 uses of force – especially for incidents in which this is the only type of force used.

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<sup>22</sup> Carrying an individual who is unable to walk under their own power is not, by itself, a use of force. However, if that person resists being carried or assisted into a patrol vehicle, that action becomes a reportable Type 32 use of force. In the sample, all four instances in which force was used to carry or place a subject in a patrol vehicle, this force was directly related to that subject's intoxication or mental health crisis.



**Figure 4:** Categories to describe the purpose of each instance of Type 32 force observed in the 40 incidents in the audit sample. This chart shows the breakdown by category of the 50 separate instances in which force was employed in these 40 incidents, showing both the number of instances in which Type 32 force was employed for that purpose, and the percentage of observed instances of force fit that description.

### Additional Observation #3

In the most complex incident reviewed in the sample, the Auditor observed some variation in officer assessments of the number of Type 32 uses of force to report in Vision with separate force details. A further review of other complex incidents involving Type 32 force from the inspection period revealed that this type of variation was not unique in the time period.

The Department recognized as much. In November 2022, the OPD Policy and Publications unit issued additional training materials to re-emphasize and standardize this type of reporting. A statistical analysis of the reporting before and after the additional training was disseminated demonstrated its effectiveness. The number of force details reported per incident went down by roughly 15%, driven significantly by the numbers reported in the most complex incidents.

One incident served as an example. The Vision report for that incident (hereafter referred to as incident A) listed 31 separate reported Type 32 uses of force across two force reports, the first of which included 30 force details. The second contained a single force detail for a separate use of force against the same person after transporting them to Santa Rita Jail, the day following the initial arrest. While Incident A included the participation of seven officers, it also included separate Type 32 force details for each officer, including one officer with 10 reported Type 32 uses of force (see figure 3, below).

Officer	Reported Type 32 Force Details per Officer in Incident A
Officer 1	10
Officer 2	7
Officer 3	6
Officer 4	4
Officer 5	2
Officer 6	1
Officer 7	1

**Figure 3:** *Reported Type 32 uses of force by officer in Incident A*

After reviewing both written reports and body worn camera video of Incident A, from first contact through the eventual booking of the subject of force into Santa Rita jail, the Auditor determined that all participating officers correctly described their participation in the incident and all observed Type 32 uses of force in their individual written arrest, field interview, or supplemental report narratives. Moreover, this incident was the most complex in the review sample, spanning several encounters separated by time and distance, each involving Type 32 force, and most involving more than one officer. However, when assessing these uses of force, the Auditor was struck both by the variation in the number of force details reported by different officers who were observed to have participated in the encounter in similar ways and counted only 15 total uses of Type 32 force across all officers and instances in which they physically engaged the subject.

For the officer with the most documented force details, the Auditor counted only three instances of Type 32 force separated by enough time and distance to have required a separate force detail based on Department guidance on force reporting when the same officer engages in multiple uses of Type 32 force (as opposed to the 10 details assigned to that officer in the Vision report).

To understand this variation and further clarify the Department's guidance on reporting force details in complex encounters involving multiple Type 32 Uses of force, the Auditor reached out to the OPD Policy and Publications Unit to request materials related to any training that officers received on reporting this type of incident prior to the inspection period. In response, the Department provided a series of six primers on force reporting for use in trainings in June and July 2022 including *Primer 4 – Type 32* which walks officers through typical Type 32 force reports and *Primer 6 – Force Reporting* which contains a frequently asked questions (FAQ) section that largely speaks to officer questions about reporting on Type 32 uses of force. Primer 6 had the clearest description of department expectations for how officers should think about and report Type 32 force when there are multiple engagements or force details in a single incident for the June-December 2022 period covered by this audit. From that primer (pg. 3):

*“Q: How should Type 32 force be separated out for reporting purposes? Are multiple tugs/pulls of an arm/instances of holding a person down each separate and distinct uses of force?”*

*A: Perhaps the hardest question I've dealt with. The recommendation of the Policy and Publication unit is that Type 32 uses of force be grouped together as one "Type 32" UOF if they naturally fit together. How might Type 32 uses of force "naturally fit together" you ask?*

***Incidence of Resistance*** – I expect this to be the most natural and common way for Type 32 force to be grouped together. You may not remember each and every action you took to overcome resistance, but the resistance of the subject may be more distinct. For instance, a subject who is handcuffed refuses to get in the back of the police vehicle. Both officers try pushing the subject in the open door for a few moments, then one goes around the other side, grabs hold of the subject, and pulls the subject into the backseat. While both officers likely did a fair amount of tugging, pushing, pulling, etc. during this incident, I would classify this as one Type 32 UOF for each officer – based on the resistance that the subject posed, and which was overcome by the officers' force.

***Location*** – Continuing with our example, let's say the above subject is taken to the hospital. At ACH, the subject refuses to get out of the patrol car, and the officers pull the subject from the car. I would make this a separate Type 32 UOF for each officer.

***Time*** – Consider this example – an officer goes to detain a subject on the street, who refuses to put his hands behind his back. The officer pulls the subject's hands behind his back and handcuffs the subject (one Type 32). The subject is detained while the investigation is ongoing. Probable cause is developed to arrest the subject and, about 15 minutes later, the subject is advised that he is under arrest. The subject attempts to pull away from the officer, and the officer uses physical force to control the subject (another separate Type 32).

*What do all these examples have in common? A break in the action. In deciding whether to add a separate Type 32 use of force during an incident, involved members and supervisors should consider whether there has been a break in the action; that is, whether some kind of lull has occurred that naturally allows for separation into a different, distinct Type 32. Otherwise, keeping these as one UOF makes the most sense."*

While these primers and the training they accompanied provided guidance on how to think about and report on incidents with multiple Type 32 uses of force, they also recognized that these incidents are often complicated and that there might be some variation in how officers interpreted their interactions with subjects, so the guidance was provided in the form of advice rather than strict policy requirements. Likewise, the primers themselves were created for use during the training but were not made available through the Department's regular policy document portal PowerDMS, so an officer with questions about department expectations with respect to reporting incidents with several force details would have to rely on memory of the training and advice from their supervisors and fellow officers to answer these questions as opposed to having clear reference materials.

At the same time, the example used in Primer 6 described above matches closely to the issues identified by the Auditor in the reporting of force details in Incident A. While individual force details recorded in Vision do not capture the exact act or acts that each detail applies to, the written supplemental report by the officer with 10 force details related to incident A describes the encounter and appears to count



every instance of physical contact between that officer and the subject as a separate force detail, even when these were not separated by time and distance or any pause in the subject's resistance.

For example, during the initial encounter the officer grabbed the subject's wrist. The subject pulled away. The officer grabbed again. The subject pulled away again and tripped. The officer then took hold of the subject's arm while the subject was on the ground and held them in place while awaiting assistance, eventually assisting with handcuffing. The sequence just described, which occurred over less than 5 minutes, was noted as 5 separate Type 32 uses of force in the officer's written report and counted for five (5) separate "force details" assigned to that officer in the VISION force report.

Based on department guidance regarding time and distance however, the Auditor determined that this should have represented only a single Type 32 use of force, as the sequence was contiguous in time and distance and related to a single extended attempt by the subject to resist officer commands and the act of handcuffing. Reporting this sequence as five uses of force with force details did not constitute a violation of department policy because the primers on force reporting were framed as recommendations as opposed to requirements. However, based on the Auditor's analysis of the incident for both this officer and the other officers who interacted with the resistant subject, the Auditor believes that significantly more force details were reported for incident A than were warranted under the time and distance guidance issued by the department.

In all, the Auditor's analysis of this incident for the purpose of force reporting counted 5 separate instances of force, some of which involved multiple officers. These instances of Type 32 force were as follows:

- 1) Initial detention and handcuffing (involving four officers).
- 2) Carrying the subject to sit on the curb awaiting medical assistance (involving four officers).
- 3) Assisting medical professionals with the restraint of the subject in a gurney prior to transport to hospital (four officers).
- 4) Moving from gurney to hospital bed and assisting medical staff in applying restraints (two officers).
- 5) Preventing the individual from fleeing prior to booking at Santa Rita Jail (one officer).

Therefore, in total, this analysis counts 15 interactions that the Auditor assessed to have required a separate force detail.

#### **Variation in reporting Type 32 force details across the 2022 Vision Force data**

Having determined that the incident with the largest number of reported uses of force in the random sample of incidents that were reviewed in depth appeared to overcount the number of Type 32 uses of force documented with separate force details based on the training from June 2022, the Auditor next attempted to assess whether this type of overcounting was unique to the incident reviewed or indicative of a broader issue in the data. This assessment took two forms:

- 1) The Auditor examined the data from June-December of 2022 to see whether there were other incidents with especially large numbers of Type 32 uses of force reported, or singular officers within those incidents with similarly large numbers of uses of force, which might

indicate that officers may not have factored time and distance into their assessments of how many Type 32s to document with a separate force detail.

- 2) The Auditor then took advantage of the fact that the department issued additional training & guidance on Vision force reports for incidents with “multiple Type 32’s,” in December 2022 to assess how much the 2022 data may have been impacted by variations in reporting time and distance by comparing it to reporting done after the additional guidance was issued.

### **Incidents with multiple Type 32s, June-December 2022**

When the Auditor looked at the force data from June-December 2022, Incident A stood out as an outlier, and had the most reported Type 32 uses of force in one incident during the inspection period. It was not, however, the only incident with a large number Type 32 force details reported. There were 6 incidents which each had more than 20 reported Type 32 force details, and 33 incidents with 10 or more reported Type 32 force details.

When the Auditor examined individual officer level data for incidents during the inspection period, it found a similar pattern. The 10 Type 32 force details assigned to a single officer in the Vision force report for Incident A was unusual but was not the highest number of documented Type 32 uses of force by a single officer during a single incident during the inspection period. The Auditor found one other officer who reported 14 separate force details in one incident, another with 10 reported Type 32 force details in a single incident, and 37 officers with five or more reported Type 32 force details in a single incident, often in incidents in which other officers who also reported engaging in Type 32 force reported far fewer force details.

While the Auditor did not conduct a detailed review of all incidents with large numbers of Type 32 uses of force reported as separate force details, or those with officers who individually were reported to have used Type 32 force multiple times, as it did for Incident A, the fact that there were so many incidents with these characteristics led the Auditor to believe that the reporting issue identified in the review of Incident A was likely indicative of a broader issue in the 2022 data. The next step was to assess the magnitude of this reporting issue.

### **Assessing the magnitude of 2022 variation in Type 32 force detail reporting.**

When discussing this issue with the Policy and Publications unit, the Auditor was apprised of the fact that the department was aware of this specific type of reporting issue and had already developed a training PowerPoint<sup>23</sup> to clarify how multiple Type 32 uses of force were to be counted in Vision reports. The training materials were sent to Sergeants and Commanders in November 2022, with the expectation that they would deliver it to officers during line-up training in late November and early December 2022. Therefore, if the additional guidance and training were successful in standardizing this reporting, one would expect the count of Type 32 uses of force captured in force details for each incident would be different for Vision reports submitted after December 2022. This data point could then be used to estimate the magnitude of the potential variation in force detail reporting in the 2022 data.

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<sup>23</sup> “VISION Reporting for Multiple Type 32s, November-December 2022” – PowerPoint presentation sent to Sergeants and Commanders, late November 2022. Full document attached as Appendix B.

To conduct this analysis, the Auditor examined an export of force data from the first five months (January 1 – June 6) of 2023 – a period after the additional guidance and training was issued – and compared that to the data from June - December 2022, a set of data largely collected before the extra guidance was issued.<sup>24</sup>

When the Auditor compared data from these two time periods, the contrast was striking. While the 2022 data included several incidents with large numbers of reported Type 32 uses of force similar to Incident A, the number of force details per incident for complex incidents in 2023 were drastically lower. In the 2023 data, the incident with the most reported Type 32 force only had 15 force details, and only eight incidents had 10 or more reported Type 32 force details. By contrast, there were 33 incidents with 10 or more force details in Vision data covering the 2022 inspection period (more than four times the number in the 2023 data).

When looking at the data by individual officers, the decrease in the number of force details per incident was even more striking. In 2022, there were three officers who reported 10 or more Type 32 force details in a single incident, 37 officers who reported 5 or more force details in an incident, and 69 officers with four or more force details reported for one incident. In the 2023 data, on the other hand, the highest number of Type 32 force details reported by one officer in a single incident was seven, three officers reported four force details in one incident, and no other officer reported more than three.

Moreover, when the Auditor calculated the average number of reported Type 32 uses of force per incident for each of the two periods, incidents from the 2022 period were found to have 3.17 reported Type 32 force details on average, while those from 2023 averaged only 2.71 reported Type 32s per incident.<sup>25</sup> This equates to an average decrease of 0.46 reported Type 32 uses of force per incident between the two years. Or, to put it another way, there were approximately 14.5 percent fewer Type 32 force details reported per incident in 2023 than in 2022.

The Auditor was unable to find any changes to OPD policy or practice other than the additional line-up training regarding Type 32 force reporting that was issued in the final months of 2022 that could account for this decrease. The Auditor therefore estimates that the 2022 data, capturing Type 32 force before officers received the additional guidance on reporting multiple instances of this force type, includes an overcount of Type 32 force details for incidents in which multiple uses of force were reported.

While this overcount would not affect any statistical analysis based on incident level data (the overcount consists of miscounting the number of Type 32 force details per incident, not whether there was such a

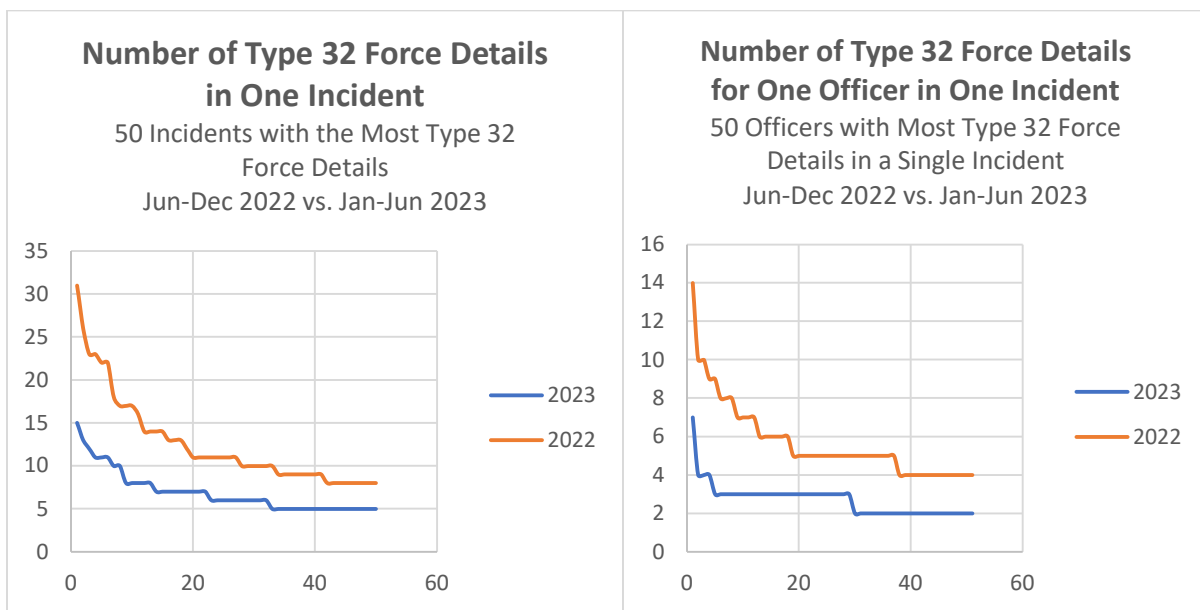
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<sup>24</sup> The data for 2022 spanned June 4, 2022 – December 31, 2022, and consisted of 856 incidents with a Type 32 use of force that included 2718 separate force details. The 2023 data went from Jan 1, 2023 – June 6, 2023, and consisted of 543 incidents with a Type 32 use of force with 1469 force details.

<sup>25</sup> To assure that these observed differences between the 2022 and 2023 data were statistically significant, the audit team conducted a simple two-sample two-tail T-Test of means on the count of Type 32 uses of force per incident in the two time periods. That test revealed that the decrease in reported Type 32 uses of force per incident between the June-December 2022 period examined as part of this inspection and the January-May 2023 time period after the additional training was statistically significant at the 99% confidence level.

use of force), statistical analysis based on individual uses of force recorded in force details for the 2022 calendar year would overcount the small set of incidents in which there were large numbers of Type 32 force details reported. Additionally, this statistical analysis of Type 32 force reporting before and after December 2022 demonstrates that the additional line-up training and the materials developed as part of that training were extremely effective at changing officers' reporting patterns.

To show the dramatic decline in the number of force details reported per incident and per officer after the additional training in December 2022 – especially in complex incidents with large numbers of force details – the Auditor created charts that compared the number of force details per incident for the 50 incidents with the most force details, and the number of force details per officer for the 50 officers with the most force details in a single incident in both the 2022 and 2023 periods. These comparisons are shown in Figure 4 below.



**Figure 4:** Two graphs showing the decrease in the number of force details per incident for the 50 incidents and 50 officers with the most reported force details in one incident between the period of June-December 2022, before officers and supervisors received additional training on Type 32 force reporting, and January-June 2023, after that training was provided.

### Recommendation

In Additional Observation #2, which describes the variation in reporting Type 32 force details in Vision data for the inspection period of June-December 2022, the Auditor analyzed the impact of a PowerPoint Presentation that the training division e-mailed to Sergeants and Commanders in late November 2022 with guidance on VISION reporting of multiple Type 32 uses of force, and which they in turn were asked to share with officers under their command during line-up training in early December 2022. That analysis indicated that the clarification was necessary given the discovered variation in Type 32 uses of force before it was issued and was effective given how the numbers changed after it was issued.

While the Auditor appreciates the impact of this PowerPoint presentation and the additional training and guidance that it was part of, it also notes that this document was issued by e-mail to commanding officers only and is not yet posted in PowerDMS, the Department's centralized policy and training document repository. Likewise, the original primers on force reporting developed by the policy and publications unit were also not posted to PowerDMS, and there is no specific guidance on how to count multiple Type 32 uses of force in any of the policy documents related to that force type or force reporting generally. Therefore, for any new officer, or external reviewers such as the Auditor, this information is unavailable in a written form, and undiscoverable without learning of it from an officer who received the e-mail or participated in the line-up training.

**The Auditor recommends that the Department post the PowerPoint describing how to document multiple Type 32 uses of force in PowerDMS and should convert it into policy language which can be included in any future policy revision replacing of Special Order 9208, which details Type 32 force reporting, or in Report Writing Manual U-1 – Use of Force Report, Vision FORM Completion Instructions.**

## Analysis of Type 32 Data

The SO 9208 requirement that officers document all force encounters in the Department's Vision database created the opportunity to analyze Type 32 force in a way that was unavailable before June 2022. Therefore, as a third objective, the Auditor undertook a preliminary statistical analysis of Type 32 force data in Vision to assist the Department in understanding this force type and how it compares to other types of force employed by OPD officers in the field.

### **Type 32 force is different from all other types of force.**

Type 32 force is a catch-all force type for every instance that an officer employs physical prowess to overcome a subject's resistance or defend oneself or another from combative action by another person that does not fall into another specifically defined force type.<sup>26</sup> This makes it different from other force types tracked by the Department in that the use of force is not only defined by the specific actions of the officer, but also by the actions of the subject of force, and whether that subject is resistant or combative. So, for example, while placing handcuffs on a subject is not generally a reportable use of force, if the subject being handcuffed resists by attempting to pull away or tensing their muscles and the officer uses physical prowess to apply the handcuffs, that handcuffing becomes a Type 32 use of force and must be reported.

As an integral part of the review of Type 32 force and Department compliance with the reporting requirements of SO 9208, the Auditor analyzed all use of force data reported in Vision from the inspection period of June 4, 2022, through December 31, 2022, and sought trends and patterns in the data to understand these uses of force in the context of all other Department force reporting, and to determine whether these uses of force differ from other reported force types in any meaningful way. Below you will find graphics and statistics related to the following variables elicited from the data:

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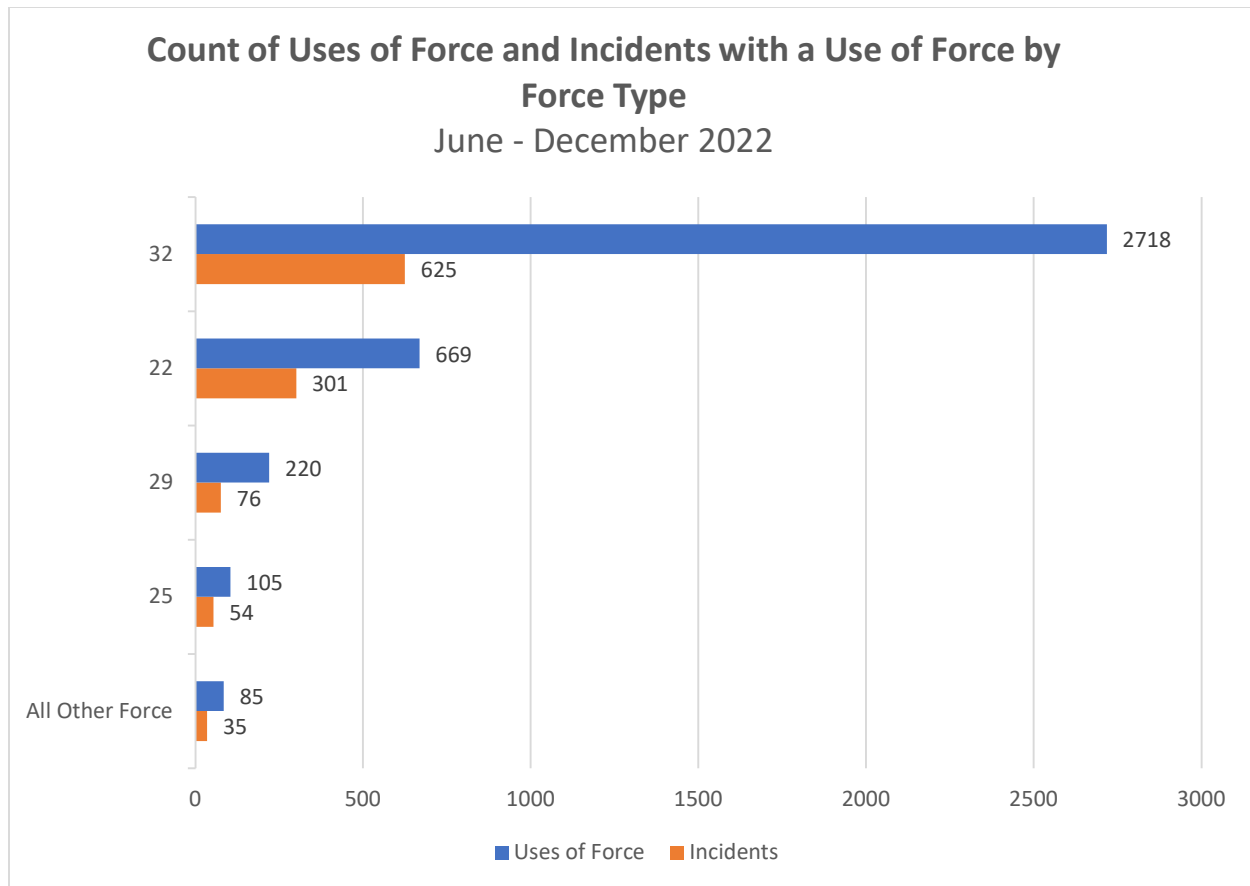
<sup>26</sup> SO 9196, pg. 4

Graphic	Type of Statistics
Figure 6	Number of Type 32 UOFs versus Other Types of Force
Figure 7	Map of the City of Oakland Where Type 32 UOFs Occurred
Figure 8	Reason for Officer Presence at Incident with a Type 32 UOF Action Preceding Type 32 UOF Action Immediately Preceding Type 32 UOF
Figure 9	Frequency of Subjects of Type 32 Force Being Arrested
Figure 10	Gender of Subjects of Type 32 Force
Figure 11	Frequency of Subjects of Type 32 UOF Requiring Medical Assistance versus Subjects of Other Types of Force Requiring Medical Assistance

### **Number of Type 32 UOFs Versus Other Types of Force**

Type 32 force is the most prevalent force type recorded by the Department, constituting 2718 (72%) of the 3797 total reported uses of force reported as separate force details in Vision force reports during the inspection period. Likewise, during this period almost four fifths of the incidents in which force was reported to have been used included at least one Type 32 use of force (78.6% or 857 of the 1091 police encounters in which some force was reported to have been used included at least one Type 32 use of force), and 57.3 percent of these encounters only involved Type 32 force (625 of 1091 incidents with a documented use of force only had Type 32 force).

Figure 6, below, shows the prevalence of Type 32 uses of force compared to other force types during the inspection period, both by number of force details reported for each force type, and by the number of incidents in which that force type was the most serious force used. So, for example, if an incident involved a Type 32 use of force, but also an instance where an officer pointed a firearm at a subject (a Type 22 use of force) each of those is recorded as a use of force of the appropriate force type, but the incident is counted as a Type 22 use of force because that is the most serious force in that incident.

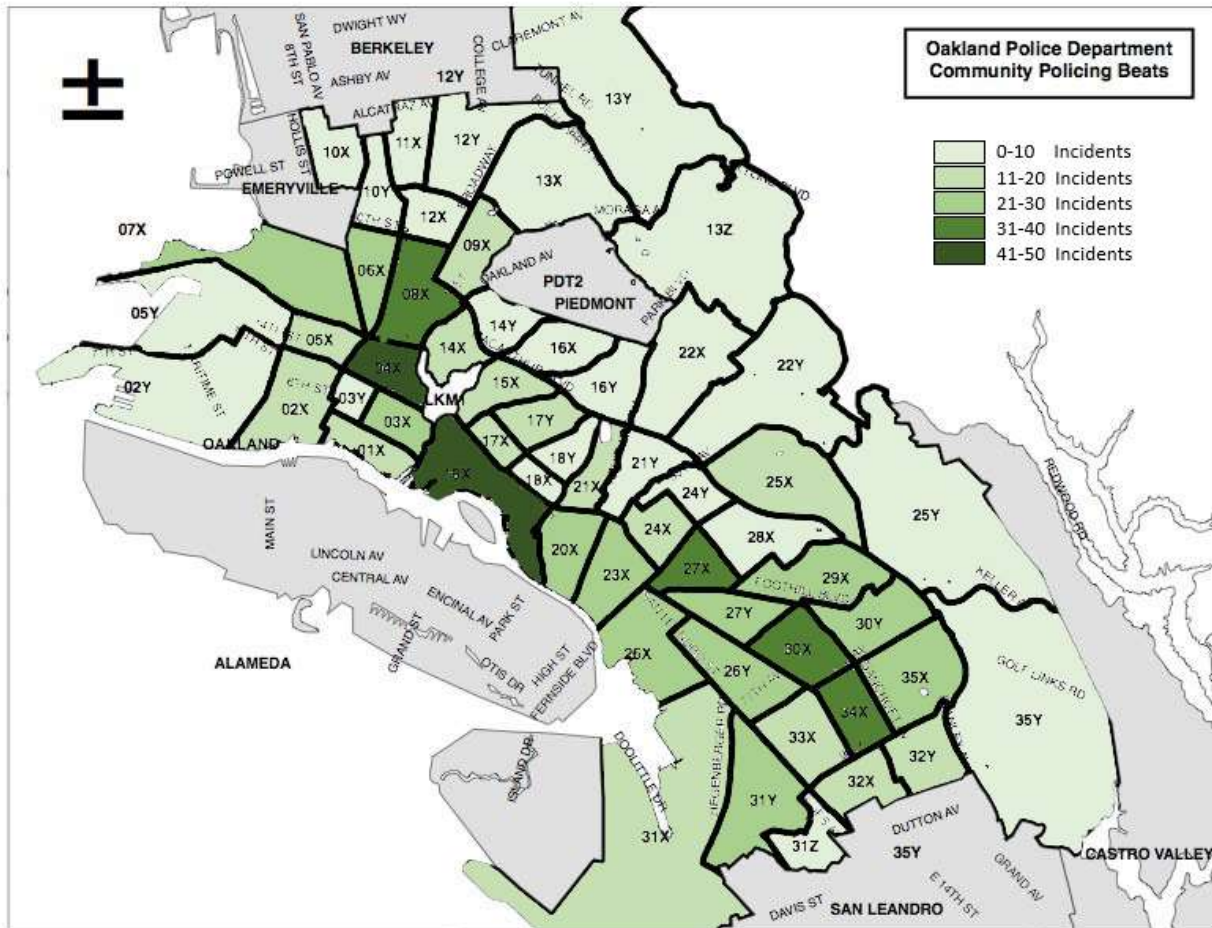


**Figure 6:** *Uses of Force and Incidents with Reported Uses of Force by Type June-December 2022, showing the prevalence of Type 32 force. (Note: for reference, the next three most prevalent force types are Type 22: pointing a firearm, Type 29: takedown, and Type 25: weaponless control hold).<sup>27</sup> In all cases, incidents are counted by the most serious force type employed in that incident.*

<sup>27</sup> For the full list of force categories and types with descriptions of each, see [Special Order 9196](#).



### Map of the City of Oakland Showing Where Type 32 Force Was Employed



**Figure 7:** Map showing the count of Incidents with a Type 32 Uses of Force by Police Beat, June-December 2022.

Geographically, incidents with a Type 32 force occurred in every part of the City of Oakland, but were especially concentrated downtown, along the waterfront across from Alameda and in East Oakland, as shown in Figure 7.

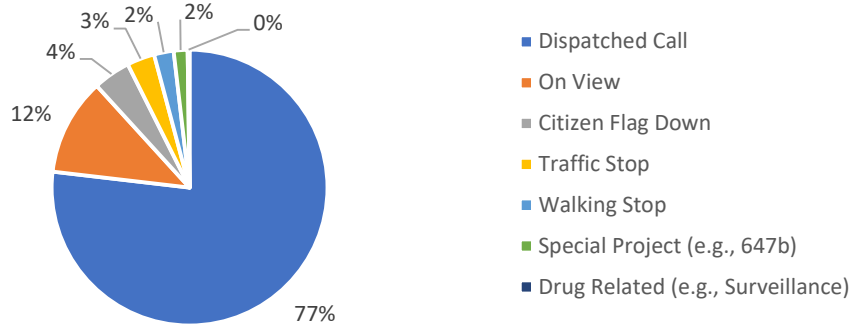
### Circumstances of Type 32 Use of Force

To better understand the nature of the police interactions in which Type 32 force is employed and the reason officers reported having used such force, the Auditor next examined those variables in the Vision force data. Almost 80 percent of the incidents in which Type 32 force was used occurred after officers were dispatched to respond to a call for service. Officer presence was largely the result of reporting by a member of the community. The force itself occurred most often while officers were trying to gain control of and/or handcuff resistant subjects (roughly 64 percent of all Type 32 uses of force were reported as occurring while attempting to gain control – 39 percent - or handcuff – 25 percent the subject). Likewise, more than 59 percent of the Type 32 uses of force were employed to detain the subject of the force, not during initial contact or while trying to effectuate an arrest (see Figure 8). The breakdown of these reported reasons for employing force were similar across all incidents in which a

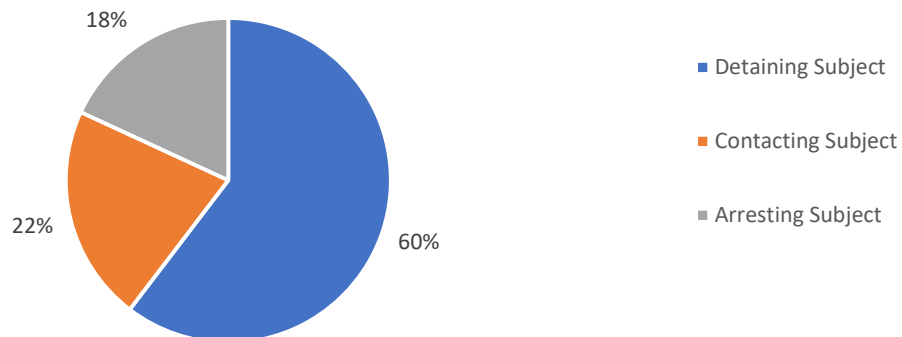


Type 32 use of force occurred, regardless of whether any other force was used, and are in line with reported actions associated with officer employment of other force types.

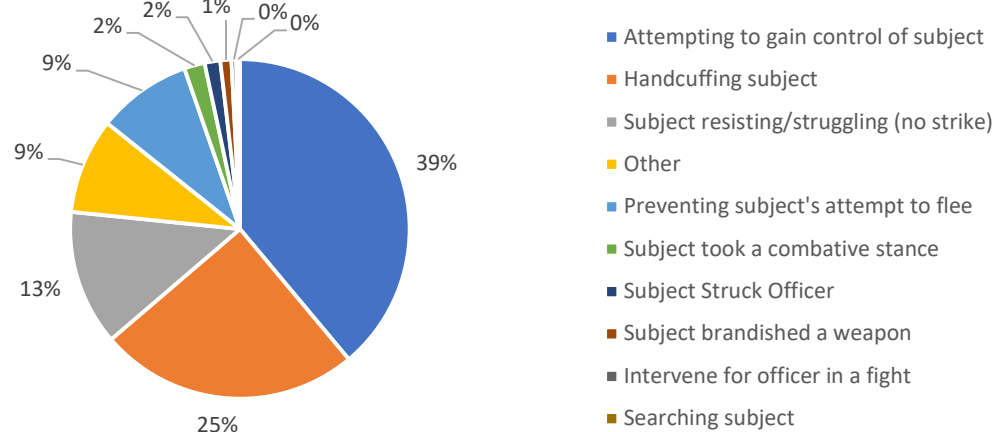
### Reason for Officer Presence at Incident with a Type 32 Use of Force June-December 2022



### Action Preceding Type 32 Use of Force June - December 2022



### Action Immediately Preceding Type 32 Use of Force June - December 2022

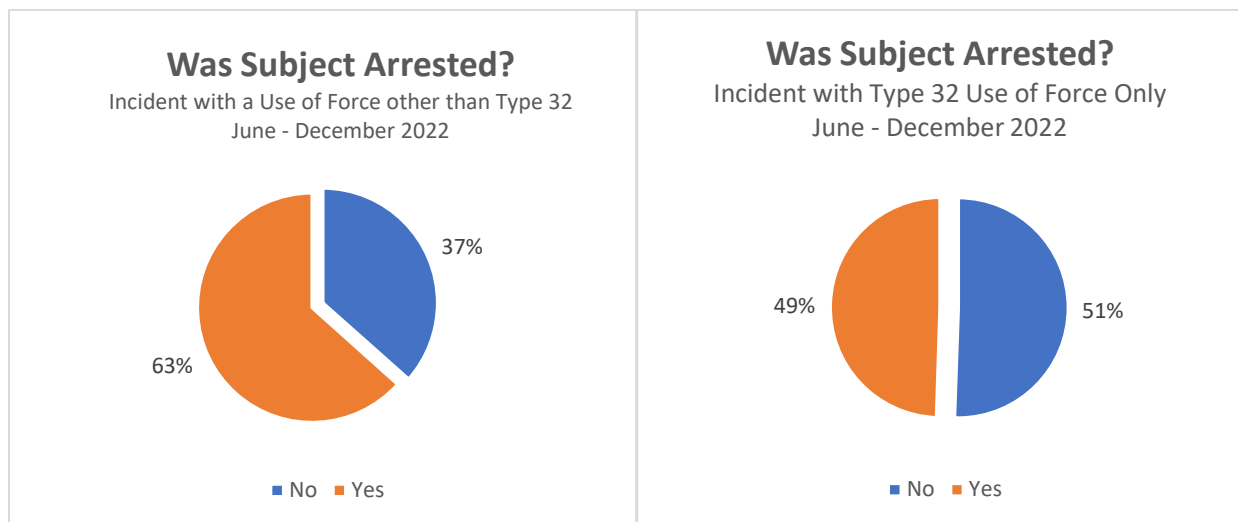


**Figure 8:** *Characteristics of Type 32 Uses of Force including the reason for the officer’s presence at the incident, the action immediately preceding the use of force, and the action during which the force was reported to have occurred.*

### **Differences Between Type 32 Force and Other Force in the Vision Data Set**

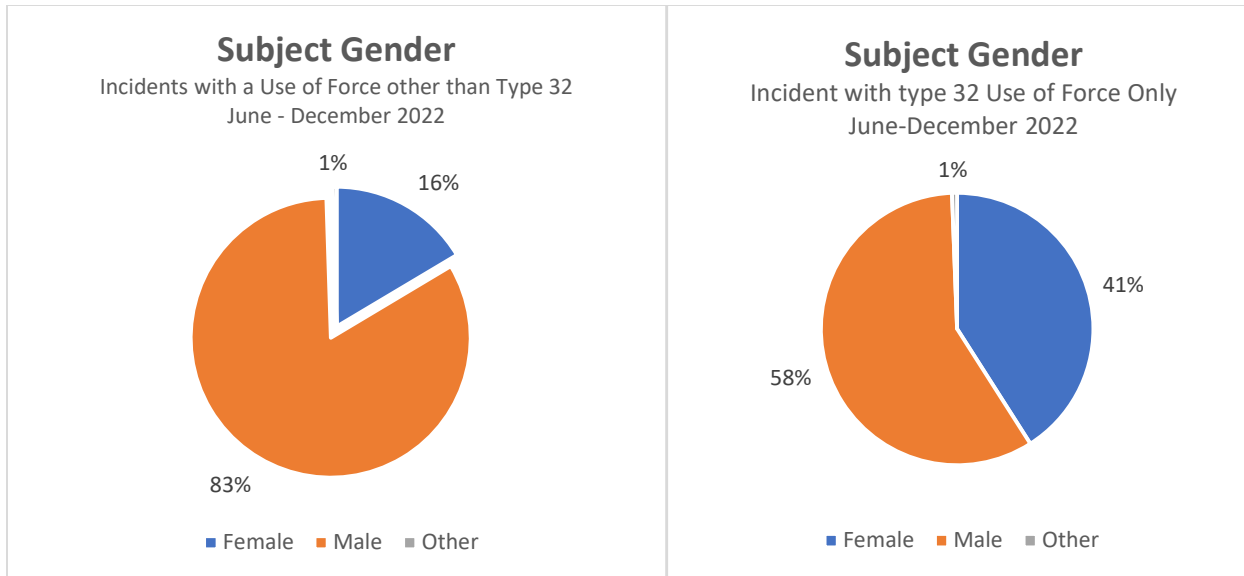
When the Auditor focused on incidents in which only Type 32 force was reported (excluding incidents in which other force types were also reported to have been used), these incidents were found to be significantly different from other reported force in several important ways.

Incidents in which Type 32 force was the only force reported were almost 40 percent more likely to end without an arrest than those in which some other force was reported (51 percent of individuals who were only the subject of Type 32 force were released without an arrest versus only 37 percent of those who were subject to other force types – Figure 9 below).



**Figure 9:** *Subjects of Type 32 uses of force only were 50 percent less likely to be arrested than subjects of other use of force types.*

Also, the subjects of Type 32 force were more evenly split between males and females (Females comprised roughly 41 percent of the subjects of incidents with only Type 32 force versus only 16 percent of the subjects of other force types, as shown in Figure 10 below).



**Figure 10:** Subjects of Type 32 uses of force were more than twice as likely to be Female when compared to subjects of other force types.

While the data reported in Vision does not contain a level of detail sufficient to fully parse where these differences come from, the Auditor's detailed review of a sample of these incidents provides some insights into how these incidents may be different from other police encounters in which force is used.

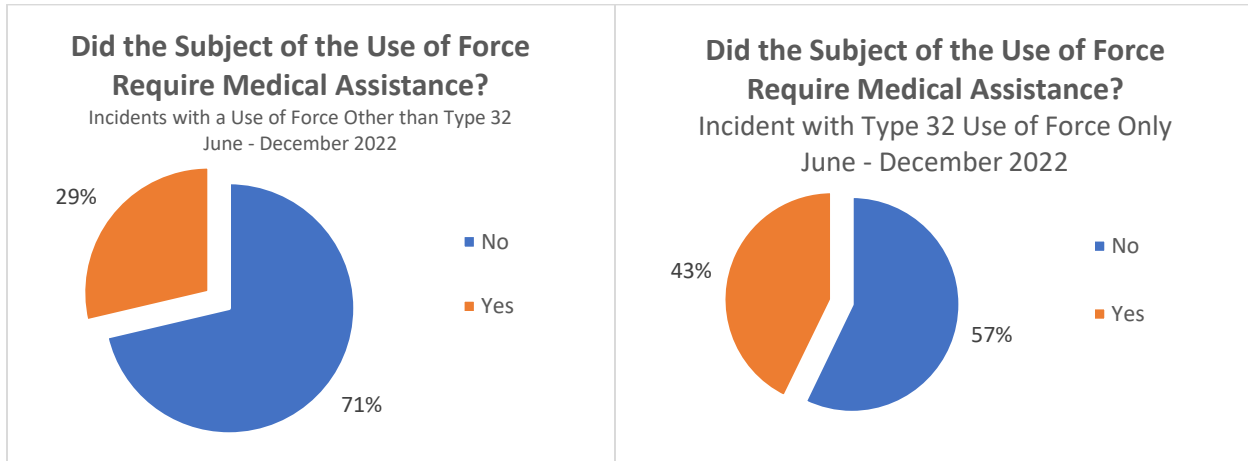
When the Auditor examined the sample of 40 incidents with only Type 32 force more closely, they found that many required officers to exert physical control during encounters with subjects who were suffering from some type of intoxication and/or mental health emergency, as was described in more detail in Additional Observation #2.

The Auditor hypothesizes that the statistical differences found between incidents in which Type 32 force is the only force reported and other incidents with more serious force types reported may be related to the proportion of incidents in which Type 32 force involves subjects suffering from intoxication or a mental health crisis as opposed to overt criminal behavior because criminal arrests in Oakland skew to male,<sup>28</sup> while intoxication and mental health emergencies result in fewer criminal arrests and are more evenly distributed by gender than criminal arrests.

This interpretation of the data was strengthened when the Auditor looked at whether the subject of a use of force required medical assistance for a reason other than injury caused by officer actions (if the reason officers call for medical attention is due to injuries caused by police force, they are required to document that separately with a different field in the Vision Force Report as it triggers additional supervisory review). When the Auditor examined this data, they found that interactions in which only Type 32 force was reported to have been used were almost 50 percent more likely to result in a call for medical assistance than those in which any other type of force was reported (43 percent versus 29 percent as shown in Figure 11, below). Section 5150 of the Welfare and Institutions Code requires

<sup>28</sup> According to arrest data available on the City of Oakland website, males accounted for approximately 76 percent of all criminal arrests through the first 8 months of 2023, in line with previous year data. Arrest data is available at <https://data.oaklandca.gov/stories/s/Oakland-Police-Arrests/eqyv-8xr2/>.

officers to call medical staff for assistance in assessing whether an individual meets the criteria for involuntary detention due to mental health crisis. Thus, the difference may be associated with the prevalence of mental health emergencies as a contributing factor to officer uses of Type 32 force to control subjects who are resistant to such engagement.



**Figure 11:** Subjects of Type 32 Uses of Force only were almost 50 percent more likely to be reported as requesting medical assistance than those subject to other force types.

#### Raw Number Data Used to Generate the Graphs in this Section of the Audit

To maintain transparency, the raw numbers used to calculate the statistics reflected in graphs in this section is included below.

Reason for Officer Presence	Count
Dispatched Call	667
On View	99
Citizen Flag Down	38
Traffic Stop	28
Walking Stop	20
Special Project (e.g., 647b)	14
Drug Related (e.g., Surveillance)	2
<b>Total</b>	<b>868</b>

Action Preceding Force	Count
Detaining Subject	524
Contacting Subject	187
Arresting Subject	157
<b>Total</b>	<b>868</b>

Action Immediately Preceding Force	Count
Attempting to gain control of subject	338
Handcuffing subject	215
Subject resisting/struggling (no strike)	112
Other	79
Preventing subject's attempt to flee	78
Subject took a combative stance	17
Subject Struck Officer	13
Subject brandished a weapon	9
Intervene for officer in a fight	4
Searching subject	3
<b>Total</b>	<b>868</b>

Force Other Than Type 32	
Was Subject Arrested	Count
No	216
Yes	374
<b>Total</b>	<b>590</b>

Type 32 Use of Force Only	
Was Subject Arrested	Count
No	327
Yes	320
<b>Total</b>	<b>647</b>

Force Other Than Type 32	
Subject Gender	Count
Female	97
Male	490
Other	3
<b>Total</b>	<b>590</b>

Type 32 use of Force Only	
Subject Gender	Count
Female	265
Male	378
Other	4
<b>Total</b>	<b>647</b>

Force Other Than Type 32	
Medical Assistance?	Count
No	421
Yes	169
<b>Total</b>	<b>590</b>

Type 32 Use of Force Only	
Medical Assistance?	Count
No	370
Yes	277
<b>Total</b>	<b>647</b>